

REMARKS

The present patent application has been reviewed in light of the office action, dated October 27, 2010, in which the claims 1-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuwahara et al., U.S. Publication No. 2003/0162550 (hereinafter “Kuwahara”) in view of Bassirat, U.S. Patent No. 6,507,741 (hereinafter “Bassirat”). Reconsideration of the above-referenced patent application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-37 are pending.

Information Disclosure Statement

In the Information Disclosure Statement filed herewith, the three items of non patent literature are supporting documentation for previously filed foreign language art. The title of each of the three items refers to the identity of the cited art, and provides the serial number for the U.S. application corresponding to the foreign patent application receiving the office action.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuwahara in view of Bassirat. Assignee respectfully traverses these rejections.

To successfully make a prima facie rejection under 35 U.S.C. § 103, the Examiner must show that Assignee’s claimed subject matter would have been obvious to one of ordinary skill in the art pertinent to Assignee’s claimed subject matter at the time it was made. See *KSR International, Co. v. Teleflex, Inc.*, 127 S.Ct. 1727 (decided April 30, 2007). Some of the factors to consider in this analysis include the differences between the applied documents and Assignee’s claimed subject matter, along with the level of skill associated with one of ordinary skill in the art. One way in which an Examiner may establish a prima facie case of unpatentability under 35 USC § 103 would be to show that three basic criteria have been met. As explained previously, first, the Examiner should show that the applied documents, alone or

in combination, disclose or suggest every element of Assignee's claimed subject matter.

Second, the Examiner should show that there is a reasonable expectation of success from the proposed combination. Finally, the Examiner should show that there was some suggestion or motivation, either in the applied documents themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the document(s) or to combine document disclosures. The motivation or suggestion to make the proposed combination and the reasonable expectation of success should be found in the prior art, and should not be based on Assignee's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); See MPEP § 2142; 2143 - § 2143.03 (regarding decisions pertinent to each of these criteria). It is respectfully asserted that the Examiner has not met this standard with regard to the rejected claims.

Furthermore, on October 10, 2007, the USPTO published in the Federal Register its Examination Guidelines under 35 USC § 103 in view of the KSR decision, cited above. These guidelines contain a number of relevant points. In particular, the new Guidelines state that an Examiner must articulate a reason or rationale to support an obviousness rejection. Specifically, Examiner's must articulate findings as to the scope and content of the prior art to support the obviousness rejection being made. The Examiner should focus on the state of the art and not on impermissible hindsight (e.g., from inappropriate use of Assignee's disclosure). Specifically, Examiners need to account for all claim limitations in the rejections, either by indicating how each limitation is shown by the applied documents or by providing an explanation of how the document is legally relevant despite the limitation not being shown. Thus, Examiners must explain reasoning that provides a nexus between the factual findings and the legal conclusions of obviousness. It is respectfully asserted that the Examiner has not met these standards.

For example, the applied documents, either alone or in combination, do not teach or suggest all the elements of the claims. For example, neither of the applied documents disclose “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” (emphasis added) as recited in claim 1.

Kuwahara appears to show a system for determining a position of a wireless terminal under the coverage of one or more base stations in a wireless communication system. Kuwahara further appears to show a technique for the wireless terminal to estimate whether it is receiving signals from a repeater, so that the potential repeater might be accounted for in performing position estimation operations for the wireless terminal. See, for example, Figs. 3 and 4 of Kuwahara. However, Kuwahara does not disclose “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” (emphasis added) as recited in claim 1.

For example, Kuwahara does not disclose “receiving information in a wireless communication system from a repeater through a base station” as recited in claim 1. As can be clearly seen in Fig. 3, information is flowing to a wireless terminal from one or more base stations and possibly from a repeater, and not “from a repeater through a base station” as set forth in claim 1. Paragraphs [0052] and [0053] describe a process by which the wireless terminal attempts to determine whether the wireless terminal is receiving signals from a repeater, or whether all of the signals received are from base stations, without traveling through a repeater. For example, beginning at line 6 of paragraph [0052], Kuwahara states:

“If a repeater is connected to a transmitting base station exists, there is a possibility that the terminal receives signals from the repeater. The terminal compares the delay (delay time) of signals from the possible repeater and the delay of signals from another base station (112). If propagation distance obtained by multiplying the delay by light velocity for the signals from both is significantly longer than the distance between both base stations, it is determined that the terminal receives signals from the repeater (113).”

Note that in the passage recited above from Kuwahara, the terminal receives signals from a base station through a possible repeater, and Kuwahara is disclosing a technique to determine whether the signals from the base station are received through the possible repeater. There is no disclosure in Kuwahara of receiving information in a wireless communication system “from a repeater through a base station” as recited in claim 1. To the contrary, as described above, information is disclosed in Kuwahara as flowing from a base station directly to a terminal, or from a base station through a repeater to the terminal, as demonstrated clearly in Fig. 3 of Kuwahara.

Additionally, there is no disclosure in Kuwahara of information “being indicative of signals of said set of base stations detectable by said repeater” (emphasis added) being received “from a repeater through a base station” as also recited in claim 1. For example, Assignee respectfully submits that paragraphs [0052] and [0053] appear to discuss a repeater detection method illustrated in Fig. 5. As indicated in paragraph [0053], “step 111” involves a “repeater detection method...in which the terminal looks through the information table and determines whether a repeater exists that is connected to a base station in the vicinity of the terminal...”. That the information table is stored in a memory of the wireless terminal may be seen, for example, in the first sentence of paragraph [0052]. However, there is no disclosure anywhere in Kuwahara that the information table stored at the wireless terminal includes information related to signals “detectable by said repeater”, as recited in claim 1. Also, note that there is no disclosure in Kuwahara of information from the information table being transmitted from the

wireless terminal to any other entity, such as, for example, to a repeater. The repeater, therefore, would not have the ability to transmit information from the information table to any other entity in the wireless communication system. Therefore, even if the information table stored at the wireless transmitter is interpreted to include information related to signals detectable by the repeater (and Assignee does not concede that such is the case), Kuwahara would still not disclose “receiving information...from a repeater through a base station” (emphasis added) as recited in claim 1.

Additionally, at page 3 of the Office Action, the Examiner states “Kuwahara is not clear to disclose receiving information in a wireless communication system from a repeater through a base station of a set of base station, the information being indicative of signals of said set of base station[sic] detectable by said repeater.” It appears that the Examiner agrees with the Assignee in that Kuwahara does not disclose “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” as recited in claim 1.

Bassirat appears to show a radio frequency (RF) repeater having an adjustable delay in a forward and/or reverse path to improve hard hand-off performance from a first cell to a second cell. See, for example, Fig. 3 and column 7, lines 31-43. As described at column 7, lines 31-43, Bassirat discloses the use of a repeater 300 to produce a hard hand-off boundary between cells 202 and 204, resulting in an increase in the effective coverage area of cell 202. Bassirat further discloses at column 7, lines 51-58, that “In general terms, an RF repeater acts as an intermediary between a base station and a subscriber station. For the forward link, the RF repeater receives the transmitted base station signal over a wireless or wire (such as coaxial or fiber optic cable) interface and re-transmits the base station signal over an antenna. For the

reverse link, the RF repeater receives the subscriber station signals and re-transmits the subscriber station signal to the base station.” However, Assignee respectfully submits that Bassirat does not disclose “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” as recited in claim 1.

At page 3 of the Office Action, the Examiner asserts that “Bassirat clearly discloses receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base station[sic] detectable by said repeater (col. 8, lines 40-65, col. 13, lines 30-65, and col. 15, lines 20-55 “associated with CDMA handoff process where to specific applied to collocated base stations used repeater bases station or extend in the coverage that provided identifying or detect by repeater based on collocated base station and repeater base station that allow wireless communication between repeater base stations and base stations in collocated”).” However, Assignee respectfully contends that the passages relied upon by the Examiner do not disclose “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” as recited in claim 1. Assignee further contends that there is no disclosure anywhere in Bassirat of receiving information from a repeater indicating signals of a set of base stations detectable by the repeater. Additionally, there is no disclosure in Bassirat of such information being provided by the repeater through a base station of a set of base stations detectable by the repeater.

For example, at column 15, lines 20-55, Bassirat discloses that “a time delay is added to the reverse path” of an RF repeater. “The time delay of the signal is used to distinguish the location of the subscriber station as well as the RF repeater itself.” Bassirat also discloses that the “RF repeater operates as a cell extender, which extends the cell boundary.” Bassirat further

discloses that “Use of the RF repeater also improves the forward link capacity of the base station by allowing the subscriber station near the cell to communicate with the BTS at lower transmit power.” Assignee respectfully submits that there is no disclosure in the passages provided by the Examiner, or anywhere else in Bassirat, of “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” as recited in claim 1.

Therefore, for at least these reasons, Assignee respectfully submits that any purported combination of Kuwahara and Bassirat, proper or otherwise, would not yield all of the elements of claim 1. For example, any combination of Kuwahara and Bassirat, whether proper or otherwise, would not yield “receiving information in a wireless communication system from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations detectable by said repeater” (emphasis added) as recited in claim 1. Accordingly, Assignee respectfully submits that claim 1 distinguishes over any purported combination of Kuwahara and Bassirat, proper or otherwise.

While differing in scope from claim 1 at least in part, claims 6, 12, 17, 21, 26, 30, 34, and 36 include elements similar to those discussed above in connection with claim 1, and are therefore also distinguished over any purported combination of Kuwahara and Bassirat, proper or otherwise.

As pointed out above, Examiners need to account for all claim limitations in an obviousness rejection, either by indicating how each limitation is shown by the applied documents or by providing an explanation of how the applied documents are legally relevant despite the limitation not being shown. Here, the Examiner has not shown why Kuwahara and

Bassirat are legally relevant despite not showing all of the elements of the rejected claims. Therefore, it is respectfully requested that the rejections to claims 1, 6, 12, 17, 21, 26, 30, 34, and 36, as well as the rejections to claims 2-5, 7-11, 13-16, 18-20, 22-25, 27-29, 31-33, 35, and 37 which individually depend from one of claims 1, 6, 12, 17, 21, 26, 30, 34, and 36, be withdrawn.

In addition, Assignee points out that the above discussion merely addresses a single deficiency in Examiner's *prima facie* showing of obviousness. Assignee reserves the right to address other grounds, such as, for example, additional limitations not met by purported combinations, whether there is any suggestion or motivation to combine the teachings of the applied documents (e.g., suggestion or motivation to combine the Kuwahara and Bassirat documents), or whether there would have been any reasonable expectation of success in making such a combination.

Further, it is noted that claimed subject matter may be patentably distinguished from the cited patents for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

CONCLUSION

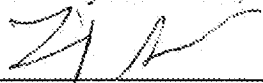
It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue, or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In light of the amendments and remarks contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

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Respectfully submitted,

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